

119

1891.

138

15,096

Interference.

C. Axelsson

Bo F. Tewksbury and

S. S. Q44 vs.

A. K. Keller

384,477

11404

179824

Thos. A. Edison and John F. Ott

Marcus O. Anthony vs.

W. S. Burnett vs.

Alton H. Fancher vs.

John F. Barber vs.

John F. Ott vs.

Ellsworth E. Flora vs.

Leon F. Douglass vs.

E. T. Gilliland and F. W. Toppa vs.

J. E. Gilliland and A. K. Keller vs.

Louis Glass and W. S. Arnold

Coin Operated Phonograph

Glass & Arnold, Broome & Acker,
1891.
Y. Redding Kiddle,
N.Y. City Thos. Ewing Jr.
ATTORNEYS, 153 Broadway, N.Y. City
Enter Freeman
Cress. Vernon M. Dorsey 918 F. St. City
Edison & Att., 4 Dey St. City, N.Y.
M. O. Anthony,
Geo. J. Murray,
Cincinnati, Ohio
W. Y. Burnett,
Y. H. G. Hollenrood,
Milwaukee, Wis.
Alton H. Faucher,
Y. A. C. Fraser & Co.
Temple Court, N.Y. City.
John & Barber,
Y. A. J. O'Brien
Denver, Colo.
W. C. Alghinbaugh, City. (Assoc.)
J. C. Alt, 40 Dey St. City, N.Y. City
E. C. Elson,
40 Dey St. City, N.Y. City
Leon Const. Douglass,
Y. F. W. Ritter, City
Gilliland & Topham
C/o Jas. [unclear] Jr. 155 Bway, N.Y.
City for assoc.
Edison, Vernon M. Dorsey
918 F. St. City
Gilliland & Keller
Y. A. H. Kiddle, N.Y. City
Enter Freeman
City. (Assoc.)
Glass & Arnold,
Y. Denny & Co.,
San Francisco, Cal.
A. H. Erano & Co.
City. (Assoc.)

Anderson, Timothy & Co.

INDEX.

INTERFERENCE.

No. 15,096.

Keller v. Edison & Ott
v. Anthony v. Burnett
v. Faucher & al.

SUBJECT-MATTER:

Coin Operated
Photograph.

- 1 Mar. 26-91. Declaration. Prelim. hearing. May 1st 91.
- 2 Apr 22nd " Statement of Burnett,
- 3 " " " " Letter to "
- 4 May 12th " Statement of Douglass,
- 5 " " " " Letters to "
- 6 " 15th " Motion by Edison & Ott to extend time for
- 7 " 16th " Motion granted. Prel. hearing set for June 1-91. ^{Filing statements}
- 8 " 18th " Statement of Anthony ^{L.R. May 21-91.}
- 9 " " " " Letter to "
- 10 " " " " Statements of Flora
- 11 " " " " " " Keller-Gilliland & Toppa
- 12 " 19th " Letter to " " " "
- 13 " " " " " " Flora
- 14 " 18th " Disclaimer by Gilliland & Toppa
- 15 " 21st " Transmitted to primary Ex. Jct.
- 16 " 22nd 91. Refusal to dissolve by primary Examiner. ^{suspended. (see endorsement paper no. 14.)}
- 17 June 1st " Statement of Edison & Ott,
- 18 " " " " " Ott,
- 19 " " " " Letter to Ott, Edison & Ott,
- 20 " 8th " Motion by Glass & Arnold for an extension of time
- 21 " 9th " granted. Prelim. hearing ^{for filing statements,} June 22nd
- 22 " " " " Letter to R. M. Smith.
- 23 June 13th 91 Appeal by Gilliland & Toppa & Brief
- 24 " 15th " Order of hearing
- 25 " 17th " Letter to parties see case no. 15-094
- 26 " 22nd " Statement of Glass & Arnold,
- 27 " " " " Letter to " " "
- 28 July 10th Supplemental brief for Gilliland & Toppa

- 29 July 30 '91 ^{15,096} ~~Cymma~~ Decision see paper No. 23
- 30 " 31 " Notice of "
- 31 Aug. 3 " Proceedings resumed. Prelim. hearing Aug. 3
- 32 Sept. 8 " Judgment against Edison & Ott Unknown Pursuits
- 33 Oct. 8 '91 Letter to Douglass, Gilliland & Toppa ^{Ott, Elora, Rancher Barber and Gilliland & Kelly. L.A. Sept. 30 '91.}
- 34 " " " Request of Examiner for Suspension ^{Arnold}
- 35 " 12 " Intf. suspended
- 36 " " " Motion by Keller to amend his statement
- 37 Nov. 18 '91 Intf. dissolved as to count 1. Redeclared
- 38 " 18 " Re-declaration. Prelim. hearing ^{as to count 2.} Dec. 10 '91
- 39 Dec. 8 " Withdrawal of motion filed Jan. 12 '92 by Keller
- 40 " 10 " " Statement of Keller
- 41 " " " " Letter to "
- 42 " " " " Statement of Axelson, Tewkesbury & Ott
- 43 " 11 " " Letter to " " " "
- 44 Dec. 29 " Judgment against Axelson, Tewkesbury & Ott
- 45 " " " Letter to Gilliland & Toppa ^{limit appeal Jan. 19 '92}
- 46 " " " " other parties ^{standing preb. hearing} 13 Jan. 20 '91.
- 47 Feb. 1 '92. Order of consolidation with #15,097 and #15,099
- 48 " " " Times set for taking testimony. Hearing July
- 49 " 11 th " Motion by Keller for dissolution. ^{26 '92}
- 50 " 12 " " Transmitted to primary Ex. (See endnote)
- 51 " 15 " Notice of day of hearing ^{West paper No. 49.} (Feb. 24, 1892)
- 52 " 24 " Brief of Keller on motion to dissolve
- 53 " 24 " Withdrawal of motion as to patent of Elson Arnold.
- 54 March 10, 1892 Decision (Motion Granted). Interference dissolved as
- 55 Notice to parties ^{to remaining parties on Examiner's own motion. limit appeal March 1892}
- 56 Mar. 29 '92. Interference dissolved.

57. April 1-92. Letter to primary examiner.

*William L. Redding
Alfred W. Widdell*

*Philadelphia Office
Pettet Building*

*Law Office of
Redding & Widdell
Pettet Building 38 Park Row*

New York

June 12th.

189

Hon. Commissioner of Patents,
Washington, D. C.


Sir:

In re Interferences Nos. 15,092, 15,094, 15,095, 15,096, 15,097, 15098, and 15,099, I received back from the Patent Office this morning original brief and accompanying letter which I had prepared as one brief in all the Interferences on behalf of Gilliland and Toppan, and this practice I deemed correct in the absence of any knowledge of "Order 453" (copy of which was sent me with the return papers), and especially in view of the fact that the Primary Examiner rendered but one decision in the Interferences with a notice that the same decision applied to each case, and in view of the further fact that the circumstances and conditions of each case are practically the same; and it did seem to me unnecessary to ask applicants to prepare and file seven copies of the same brief by the same parties in interferences relating to the same subject-matter concerning the same questions, and thus cumber the files of the Patent Office. However, I send herewith a copy of

the appeal and brief in support to be filed in each case and I would ask that it be received and filed as of the 11th instant, on which day the brief returned was filed in due time, as the limit of appeal expired that day, and I trust that the excusable ignorance of the attorney of "Order No. 453" will not militate against Gilliland and Toppan. I do not find any provision to this effect in the published rules, nor upon examination of the Official Gazettes about the date of the Order. I do not find the order published therein; hence although it may have been posted on the walls of the Patent Office such order never came to the attention of the attorney.

Awaiting acknowledgment from the Patent Office, I am,

Very respectfully,


Attorney for Gilliland
and Toppan.

Int. No. 15096 Paper No. 28

United States Patent Office.

In the matter of the interference of No. 15096 between the application of Gilliland and Tappan, Serial No. 342,875 et al.

Law- Controlled photographs.

Supplemental brief on appeal to Commissioner in Patent

H. W. Kiddle,
Atty' for Gilliland &
Tappan.



factory disclaimer is formulated and is
UNITED STATES PATENT OFFICE.

and this practice is one

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It is believed to be right and proper to be followed in

In the Matter of the INTERFERENCE :

these cases and one which is now on file to the Office and was

No. 15096 between the applica- :

tion of GILLILAND AND TOPPAN, Serial: :

No. 342,875, filed March 6th, 1890, :

and others. :

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SUBJECT: Attachments for Automatically Operating Phonographs.

New York July 7th, 1891.

Hon. Commissioner of Patents,

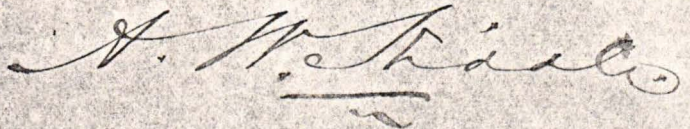
Sir:

I desire to submit the following memorandum as
supplemental to the brief heretofore submitted on this appeal:

In view of the sworn statement of Gilliland and Toppan
filed by them on May 18th, 1891, that they have not claimed in
their said application involved in this Interference and do
not claim the subject-matter of the issue as defined by the
Patent Office (not intending however, thereby to waive their
rights to their separate specific concrete invention as claim-
ed in their application) the Interference should be dissolved
since so far as their application is concerned, there is no
question of priority to be determined unless there is another
application pending covering their precise invention. If how-
ever the Commissioner is of opinion that notwithstanding the
applicants make no claim to the broad inventions of the issues,
a disclaimer should be embodied in their specification, then
after the Interference has been dissolved the application can

be held until a satisfactory disclaimer is formulated and incorporated into the specification; and this practice is one that is believed to be right and proper to be followed in these cases and one which is not new to the Office and was authorized to be pursued by Acting Commissioner Doolittle in the case of Lavarty vs. Flagg, reported in 16 O.G. 1141.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "A. M. Thiele". The signature is written in dark ink and is positioned above the typed name.

Attorney for Gilliland and Toppan.

New York July 7th, 1891.

All communications should be addressed to
"The Commissioner of Patents,
Washington, D. C."
Duplicate.

DEPARTMENT OF THE INTERIOR,

198.

United States Patent Office,

Washington, D. C., July 31, 1891.

In the matter of the

interference of

Keller vs. Anthony

Petition.

vs. Ashwell et al

Case B^B

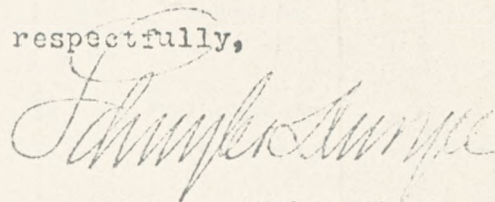
Sir:-

You are hereby informed that the decision of the Acting
Commissioner, on the above petition is as follows:-

"For reasons set forth in the decision of even date here-
with rendered in the interference, entitled Keller v. Ott v. Con-
yngton and Conyngton v. Gilliland and Toppan v. Gilman, No.15,092,
the decision of the examiner is affirmed."

By direction of the Commissioner,

Very respectfully,



Chief Clerk.

Gilliland & Toppan,

% Foster & Freeman,

City.

Memorandum: In relation to amended preliminary statements filed by O. L. Kelley in Thermisulphate Phosph Graph Interferences, on the 13th of Oct.,
Interferences 14846 & 14848.

The consents of all the parties to these cases were obtained to the filing of the new statement. The written consents being filed therewith on Oct. 13, 1891. Since that date no new parties have been added. It therefore, is requested that the Office accept the statements so filed, or if unrequ by filed, grant permission for them to be properly filed.

Interferences 14847 & 15098

The written consents of all the parties to these cases were filed with the amended preliminary statements on Oct. 13, 1891. Owing probably to a confusion in the Patent Office, ~~these~~ the receipt of these was not acknowledged and on Nov. 2, 1891, the interferences were declared with new parties. The Office is therefore requested to accept these statements, since the time.

Interferences 15092, 15095, 15096, 15097, and 15099.

In these cases the preliminary statements were ~~submitted~~ accompanied by a suitable motion accompanied by an affidavit as consents of all ~~the~~ parties to the filing of the amended.

1 sd. statements could not be obtained, no
2 action was taken by the Office on these
3 motions and subsequently the interferences
4 were redeclared and new parties added. It is
5 requested that the Examiner of Interferences take
6 up these motions and grant leave to file
7 the said statement.

8
9 Interference 15094

10 In this case through inadvertence
11 no affidavit was filed as was the case in
12 Interferences 15092, 15095 etc., to which in
13 other respects it is similar. If the Examiner
14 will consider the motion a suitable af-
15 fidavit will be filed as to the reason for
16 filing the amended statement

17
18 Respectfully submitted
19 W. H. Dancy
20 Asst. Atty. for Keller
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PRELIMINARY STATEMENT of Charles Axelson, George E. Tewksbury and Simon S. Ott.

In the above entitled cause personally appeared before me, Charles Axelson, George E. Tewksbury and Simon S. Ott, who being duly sworn, state:

F i r s t: That they conceived the invention in controversy on or about May 15th, 1890.

S e c o n d: That they made no complete drawings of the invention at that time, but that subsequently sketches were made on board, paper, and other convenient material for working use.

T h i r d: That they explained the invention to others in the month of September, 1890.

F o u r t h: That they made the first model of the invention on or about September 20th, 1890. That they subsequently made other models and these were exhibited publicly at various times and in various places.

F i f t h: That they made a complete operating machine on or about October 15th, 1890.

S i x t h: That they have made one hundred and eighty-three machines which are in successful operation, and have been so operated for months past.

..... Charles E. Axelson
..... G. E. Tewksbury
..... Simon S. Ott

Sworn to and subscribed before me, this 1st day of

December, 1891.

..... J. B. Dace
Notary Public.

My Commission expires

Sept. 15th 1892

IN THE UNITED STATES PATENT OFFICE.

in the Numismotor Phonograph Interferences.
Nos. 15,095, 15,096, 15,444.

Keller

vs.

Douglas

vs.

Glass & Arnold, et al.

vs.

Others.

BRIEF NOTES ON BEHALF OF KELLER ON THE MOTION, ~~DISSOLVED~~.

This motion is made under Rule 75, as interpreted in Reed vs. Landman, 55 O. G. 1275 (May 26th 1891) and Zitinger vs. Reynolds vs. McIntire, 57 O. G. 1279 (Nov. 7, 1891).

These interferences were declared in accordance with the practice established by ex parte Upton C. D. 1884, P. 26, which was specifically limited, if not overruled by the above named decision so that it does not in any manner modify the application of Rule 75 to the point presented in this case.

Applying this ruling to the present case, and limiting the discussion to those claims of the Douglas and Glass & Arnold patents which have been declared to be interference with the application of Keller and Gilliland and Toppan involved in the interferences it will be clear that no interference in fact exists.

First, as to the Douglas patent of which claims 1 and 2 are declared to be in interference.

In none of the above named applications is a circuit breaker arranged in a coin chute, and adapted to hold a coin or token with means for actuating the ~~main~~ circuit breaker from the phonograph carriage to release the coin, (claim 1) nor is there shown in any case two circuit breakers arranged in a coin chute, etc (claim 2)

Second, Glass & Arnold patent 428,750. Claim 20 and 23

(2)

are said to be interference.

Both specify sliding cutoff blocks controlling flexible tubes, and a swinging bar operating the cut off blocks and contacts in the motor circuit operated by said bar. No single one of these elements is shown in any one of the above named applications, nor do they show any equivalents of the elements specified in the last five lines of claim 23.

Third, Glass & Arnold patent 428,751 of which claims 11, 12 and 13, are declared to be in interference.

Each of these claims specifies a swinging strip operated by the deposited coin and a latch and catch forming electrodes of the motor circuit and operated by the swinging strip.

Neither of these elements are shown in any one of the applications above mentioned.

In addition claim 13 specifies a swinging plate adapted to close and open a hearing tube and driven coin rollers ~~with~~ none of which are shown in the above named application.

It is respectfully requested that the motions be granted.

Respectfully,

Thomas Ewing, Jr.
Vernon W. Dorsey

Attys for Keller,
Gilliland & Kelley Loppau.